IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 4081 of 2003

Between:

P.Damodar Rao, S/o Bheem Rao,
Utnoor GPCMS, Girijan Cooperative Corporation Ltd.,

R/o Ramachandrapuram,
BHEL, Medak District.

..... PETITIONER

AND

The Vice-Chairman & Managing Director, Girijan

Cooperative Corporation Ltd.,
Visakhapatnam.

.....RESPONDENT

ORDER:

The petitioner challenges the proceedings dated 02.04.2002 issued by the respondent whereby the petitioner has been determined as responsible for occasioning loss to the Girijan Co-operative Corporation Limited (for short Corporation) in an amount of Rs.1,26,218.25ps and held liable to compensate the corporation to the extent of 50% of the loss i.e. an amount of Rs.63,109/-. The impugned order directs recovery to an amount of Rs.63,109/- from the terminal benefits payable to the petitioner.

The petitioner's entered service in the Corporation as a salesman and eventually was promoted as a Senior Manager. During 06.06.1986 to 30.07.1989 he worked as a Manager at the Utnoor Branch, Adilabad District. Eventually, he applied for and was granted and thus retired under a voluntary

retirement scheme. Before his relief from service on voluntary retirement basis with effect from 30.06.2001, the petitioner was issued a charge memo on 01.05.2001 setting out three charges relating to the period 1989-90. The charges against the petitioner were (a) supervisory failure leading to spoilage of certain quantities of goods stored in the godown under the administration of Utnoor Branch; (b) failure to assess the capacity of the said godown thereby causing loss due to the spoilage of the stocks stored in the godown; (c) failure to take affective action to protect the stocks.

After relieving the petitioner on voluntary retirement, terms an enquiry was initiated against the petitioner pursuant to the charge memo dated 01.05.2001. The petitioner submitted his explanation on 18.07.2001 denying the charges and his culpability. According to the petitioner, the respondent without conducting any oral enquiry or an enquiry in his presence, issued the impugned proceedings dated 02.04.2002 directing recovery of amounts.

The petitioner assails the order on a plurality of grounds, the substantive of which may be noticed. It is contended that no power is preserved in the respondent to proceed in a domestic enquiry against the petitioner after his superannuation with effect from 30.06.2001 notwithstanding that a charge memo was issued while he was in service on 1.05.2001. Alternatively, it is contended that even if there be such a power, the determination of his liability, the conclusion of his guilt and the direction to recover the amount from him having been arrived at without complying with the principles of natural justice, the enquiry is vitiated for following an unfair procedure.

This Court in a Judgment dated 20.08.2002 in W.P.No.5292 of 2002 had occasion to consider an identical issue relating to the same respondent corporation. This Court held that the respondent Corporation has no power to initiate or continue departmental proceedings after retirement of the petitioner, in the absence of any statutory rule enabling the initiation or continuance of such proceedings against a retired employee. The facts in the case on hand are similar to the facts that fell for consideration in W.P.No.5292 of 2002.

Accordingly and following the ratio of the said Judgment, the writ petition is allowed on the ground that the respondent is incompetent to have continued the departmental proceedings against the petitioner after 30.06.2001 i.e. after the date of the petitioner's cessation of service. As the impugned proceedings are invalidated on the ground of patent lack of competence, it is not necessary to go into the alternative submission that the impugned order is also invalid on the ground of violation of principles of natural justice.

The writ petition is accordingly allowed. The order of the respondent bearing reference Rc.No.1150/2000 Admn.1, dated 02.04.2002 is quashed. The respondent shall be entitled to all the benefits consequent on the position that the impugned order is invalid abinitio. No order as to costs.

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31-08-2005

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